IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 303 of 2000

Between:

1 Chetan Khara, S/o Shashikanth Khara, aged 43 years,
R/o. 10-51-6/11/27, Kailashmetta,Visakhapatnam,
2 Rita Khara, W/o. Chetan Khara, aged 40 years,
R/o. 10-51-6/11/27, Kailashmetta, Visakhapatnam,
3 Anand Khara S/o. Shashikhapatnam, aged 30 years,
R/o. 10-51-6/11/27, Kailashmetta, Visakhapatnam.

..... PETITIONERS

AND

1 The Muncipal Corporation of Visakhapatnam, Rep by its Commissioner
Aslimetta, Visakhapatnam.
2 Sri Sabbam Srihari, Father's Name not known to the Petitioners,
Mayour of Visakhapatnam Muncipal Corporation, Visakhapatnam
3 K.Rama Rao, Father's Name not known to the Petitioners,
R/o. Sai Nagar Colony, Kapparada, Visakhapatnam.
4 G.Jangamayya, Father's Name not known to the Petitioners,
R/o. Sai Nagar Colony Kapparada, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction more particularly in the nature of a Writ of Mandamus declaring the action of the respondent in attempting to demolish the existing structures of the petitioners and to lay unauthorised road across their schedule mentioned private properties without issuing any notice, without passing any order, without giving them an opportunity of being heard and without recourse to due process of law to acquire the said properties as provided under Section 146 and 147 of the H.M.C. Act or under any other law as illegal, arbitrary, *mala fide, ultra vires* and against the Constitutional guarantees apart from violative the principles of

natural justice and to consequently direct the respondents not to interfere with the petitioner possession and enjoyment of the schedule mentioned properties in any manner what so ever including by way of demolishing the existing structures and the compound walls to lay roads through the said properties excepting under due process of law.

Counsel for the Petitioner: MR. K.SARVA BHOUMA RAO

Counsel for the Respondent No.1: MR.T.S.VENKATA RAMANA

Counsel for the Respondent Nos.2 to 4: None appeared

The Court made the following:

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ORDER:

These petitioners are residents of Visakhapatnam. They allege that they purchased different extents of land under registered sale deeds from Sri Nambala Narayana Murthy, his mother and son. They further allege that they raised fencing and compound walls in the possession of the property. According to them, respondents 3 and 4 along with their staff encroached hill poramboke with the instigation of the second respondent occupying the road denying access to the petitioners. On 08.1.2000, the officials of the first respondent along with second respondent came to the area and made preparations to lay the road by demolishing the existing structures and compound wall. Apprehending that without due process, the first respondent might demolish the structures, the present writ petition is filed.

It is now stated by learned Standing Counsel for Visakhapatnam Municipal Corporation that the writ petition is filed on mere apprehension and that the first respondent has not taken up any proposal for widening the road near the property of the petitioner for the present. Therefore, the writ petition is disposed of observing that if any road on the land belonging to the petitioner is to be laid, Corporation shall follow due process of law.

The writ petition, with the above observations, is disposed of.

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October 14, 2004. **V.V.S. RAO, J**

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To

1 The Chairman, Muncipal Corporation of Visakhapatnam,
Aslimetta, Visakhapatnam.
2 Two C.D. Copies.